

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Kendall L. Small,)	
)	
Plaintiff,)	Civil Action No. 2:17-2711-RMG
)	
vs.)	
)	
Nancy A. Berryhill, Acting Commissioner)	
of Social Security,)	ORDER
)	
Defendant.)	
)	
)	
)	

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's application for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI"). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation ("R & R") on September 5, 2018 (Dkt. No. 19), recommending that the decision of the Commissioner be reversed and remanded to the agency because of the failure of the Administrative Law Judge ("ALJ") to apply the proper legal standard in weighing the finding of the Veterans Administration that Plaintiff is 100% disabled. *Bird v. Commissioner of Social Sec. Admin.*, 699 F.3d 337, 343-44 (4th Cir. 2012) (VA disability finding entitled to "substantial weight" and Commissioner may give less weight only where the record "clearly demonstrates" such a determination is appropriate). The Commissioner has advised the Court that she does not intend to file objections to the R & R. (Dkt. No. 20).

The Court has reviewed the R & R and the record evidence and finds that the Magistrate Judge has ably addressed the factual and legal issues in this matter. Therefore, the Court **ADOPTS** the Report and Recommendation as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Gergel', is written over a horizontal line.

Richard Mark Gergel
United States District Judge

Charleston, South Carolina
September 22, 2018